

## **REMARKS**

### **A. Introduction**

Claims 1-8, 10-20 and 30-43 were pending in the application at the time of the Office Action. Claims 9 and 21-29 were canceled in earlier papers. Claims 1-8, 10-20 and 30-43 were rejected as being anticipated by and/or obvious over cited art. By this response, Applicant has amended claims 1, 6, 7, 12, 15, 16, 30, and 41-43 to further clarify the invention. Support for these amendments can be found at least at Figures 2 and 3 of the application. As such, Applicant submits that the amendments to the claims do not introduce new matter and entry thereof is respectfully requested. Claims 1-8, 10-20 and 30-43 are presented for the Examiner's consideration in light of the following remarks.

### **B. Rejection on the Merits**

Applicant would like to thank the Examiner for the courtesy of the telephone interview conducted on August 30, 2007. The *Bourque* reference (U.S. Patent No. 5,163,940) was discussed and compared to pending independent claims 1, 12 30, and 41. During the interview, the Examiner agreed that *Bourque* does not teach or suggest a template that linearly moves only at the end of the brace and suggested amending claim 1 to clarify this. Accordingly, Applicant has herein amended independent claim 1 to recite, among other things that the template is "movable linearly only at the first end of the brace between a posterior position and an anterior position with respect to the brace." The Examiner also agreed that *Bourque* does not teach a template having a plate-like portion as shown in the Figures and that is wider or longer than the cross-sectional shape of the guide sleeve. Accordingly, Applicant has herein amended independent claims 12, 30, and 41 to each recite, among other things that the template includes

**“a constricted stem projecting from the base plate, the constricted stem being coupled with the brace and having a transverse cross sectional width that is smaller than a transverse cross sectional width of the base plate” and “the transverse cross-sectional width of the base plate being wider than a transverse cross-sectional width of the tubular guide sleeve.”**

Page 2 of the Office Action rejects claims 1-7, 12-16, 18, 30-36, 38 and 41-43 under 35 USC § 102(b) as being anticipated by *Bourque*. As generally agreed to by the Examiner during the telephone conference, applicant respectfully submits that because *Bourque* only discloses a surgical drill guide having an elongated locator probe 28 (claimed “template”) that pivots in an arcuate path along the length of support beam 22 (claimed “brace”), *Bourque* does not disclose or suggest a guide assembly having a brace and a template, “the template being **movable linearly only at the first end of the brace** between a posterior position and an anterior position with respect to the brace,” as recited in claim 1.

Furthermore, as generally agreed to by the Examiner during the telephone conference, applicant respectfully submits that because locator probe 28 (claimed “template”) progressively increases in diameter as it extends from its terminal point 86 to support beam 22 (claimed “brace”) and because drill sleeve 32 (claimed “guide sleeve”) has a diameter larger than the terminal end of support beam 22, *Bourque* does not disclose or suggest a guide assembly that includes a template comprising a base plate and **“a constricted stem projecting from the base plate, the constricted stem being coupled with the brace and having a transverse cross sectional width that is smaller than a transverse cross sectional width of the base plate”** and **“the transverse cross-sectional width of the base plate being wider than a transverse cross-sectional width of the tubular guide sleeve.”** as substantially recited in claim 12, 30, and 41. As such, applicant submits that claims 1, 12, 30, and 41 are allowable over the cited art. Claims

2-7, 13-16, 18, 31-36, 38, 42, and 43 each depend from one of claims 1, 12, 30, and 41 and thus incorporate the limitations thereof. As such, applicant further submits that claims 2-7, 13-16, 18, 31-36, 38, 42, and 43 are also in condition for allowance.

Pages 3 and 4 of the Office Action reject claims 8, 10, 11, 17, 19, 20, 37, 39, and 40 under 35 USC § 103(a) as being obvious over *Bourque* in view of various U.S. patents (Patent No. 4,781,182 to Purnell et al., Patent No. 5,354,302 to Ko, and Patent No. 6,120,511 to Chan). Claims 8, 10, 11, 17, 19, 20, 37, 39, and 40 each depend from one of claims 1, 12, 30, and 41 and thus incorporate the limitations thereof. However, Applicant submits that none of the further cited art cure the deficiencies of *Bourque* as discussed above with regard to independent claims 1, 12, 30, and 41. That is, none of the further cited art disclose or suggest “the template being movable linearly only at the first end of the brace between a posterior position and an anterior position with respect to the brace,” as recited in claim 1, or “a constricted stem projecting from the base plate, the constricted stem being coupled with the brace and having a transverse cross sectional width that is smaller than a transverse cross sectional width of the base plate” and “the transverse cross-sectional width of the base plate being wider than a transverse cross-sectional width of the tubular guide sleeve,” as substantially recited in claims 12, 30, and 41. As such, applicant submits that claims 8, 10, 11, 17, 19, 20, 37, 39, and 40 are allowable over the cited art for at least the same reason discussed above regarding claims 1, 12, 40, and 41.

No other objections or rejections are set forth in the Office Action.

C. Conclusion

Applicant notes that this response does not discuss every reason why the claims of the present application are distinguished over the cited art. Most notably, applicant submits that many if not all of the dependent claims are independently distinguishable over the cited art. Applicant has merely submitted those arguments which it considers sufficient to clearly distinguish the claims over the cited art.

In view of the foregoing, applicant respectfully requests the Examiner's reconsideration and allowance of claims 1-8, 10-20 and 30-43 as amended and presented herein.

In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Dated this 8<sup>th</sup> day of October 2007.

Respectfully submitted,

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